

## BOARD OF REVIEW DECISION

**Title of publication:** IMG\_0631.JPG

**Other known title(s):** Not stated

**OFLC ref:** 1900519.000

**Medium:** Image File

**Maker:** Not stated

**Country of origin:** Aotearoa New Zealand

**Language:** Not applicable

**Applicant:** Subject to name suppression

<b>Classification:</b>	Objectionable.
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**Descriptive note:** None

**Display conditions:** None

**Date of entry in Register:** 13 March 2020

**Date of direction to issue a label:** No direction to issue a label has been issued

**Date of notice of decision:** 19 February 2020

### Summary of reasons for decision:

This was an appeal to the Board under section 47(2)(d) of the Films, Videos and Publications Classification Act 1993 (the Act) by the applicant, for a review of the decision of the Office of Film and Literature Classification (the Classification Office) dated 20 November 2019.

The publication at issue is a JPG image of 3 girls thought to be in the age range of 7-12 years, who are for all intents and purposes completely naked and bending over almost 90 degrees in a line with their buttocks facing and a little more than a metre from the camera. Large letters “POO” had been written on the buttocks of the girls, such that the middle “O” was split by their buttock crevasses. The applicant was the photographer involved in making the image.

In its decision, the Board classified the publication as objectionable under the Act. It held that the publication must be deemed objectionable in terms of section 3(2)(a) of the Act because it promotes or supports, or tends to promote or support, the exploitation of children for sexual purposes.

The Board also held that even had it not decided that the publication be deemed objectionable, it would have determined it to be objectionable under section 3(3)(b) and (c) because it exploited the nudity of the children, and degraded, dehumanised and demeaned them.

The Board rejected the submission of the applicant that the image innocently portrayed children being silly. In its view, the children must have been posed for the photograph, which has a strong sexual impact. Given their ages, the children were unable to provide informed consent to a photograph being taken of them which was of a highly intimate nature. They would not have realised that the image could be used to satisfy prurient sexual interests and could potentially be widely distributed to person unknown. Indeed, in the view of the Board the purpose of the image was none other than for sexual gratification.